

AMENDED IN SENATE JANUARY 5, 1998

**SENATE BILL**

**No. 559**

**Introduced by Senator Wright**

February 24, 1997

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An act to ~~add Section 11713.20 to amend Sections 11713 and 24007~~ of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 559, as amended, C. Wright. Vehicles: dealers.

~~(1) Existing~~

*Existing* law regulates various activities of motor vehicle dealers, including prohibiting the ~~display for sale at a location other than an established place of business authorized by the Department of Motor Vehicles~~ *delivery of a vehicle, following its sale, when the vehicle is to be operated on California highways, if the vehicle does not meet all of the equipment requirements provided by statute.*

*This bill would exclude the sale of a leased vehicle to the lessee from the prohibition if the lessee is in possession of the vehicle immediately prior to the time of the sale.*

~~This bill would authorize the department to issue temporary branch licenses to a dealer to sell or lease new or used vehicles under specified conditions. The bill would place specific limitations upon dealers operating a temporary branch location. Because existing law makes it a crime to violate provisions of the Vehicle Code, this bill would expand the scope of that crime, thereby imposing a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes no*.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1.—Section 11713.20 is added to the Vehicle~~  
2 *SECTION 1. Section 11713 of the Vehicle Code is*  
3 *amended to read:*

4 11713. No holder of any license issued under this  
5 article shall do any of the following:

6 (a) Make or disseminate, or cause to be made or  
7 disseminated, before the public in this state, in any  
8 newspaper or other publication, or any advertising  
9 device, or by public outcry or proclamation, or in any  
10 other manner or means whatever, any statement which  
11 is untrue or misleading and which is known, or which by  
12 the exercise of reasonable care should be known, to be  
13 untrue or misleading; or to so make or disseminate, or  
14 cause to be so disseminated, any statement as part of a  
15 plan or scheme with the intent not to sell any vehicle or  
16 service so advertised at the price stated therein, or as so  
17 advertised.

18 (b) (1) (A) Advertise or offer for sale or exchange in  
19 any manner, any vehicle not actually for sale at the  
20 premises of the dealer or available to the dealer directly  
21 from the manufacturer or distributor of the vehicle at the  
22 time of the advertisement or offer. However, a dealer  
23 who has been issued an autobroker’s endorsement to his  
24 or her dealer’s license may advertise his or her service of  
25 arranging or negotiating the purchase of a new motor  
26 vehicle from a franchised new motor vehicle dealer and  
27 may specify the line-makes and models of those new  
28 vehicles. Autobrokering service advertisements may not  
29 advertise the price or payment terms of any vehicle and



1 shall disclose that the advertiser is an autobroker or auto  
2 buying service, and shall clearly and conspicuously state  
3 the following: “All new cars arranged for sale are subject  
4 to price and availability from the selling franchised new  
5 car dealer.”

6 (B) As to printed advertisements, the disclosure  
7 statement required by subparagraph (A) shall be printed  
8 in not less than 10-point bold type size and shall be  
9 textually segregated from the other portions of the  
10 printed advertisement.

11 (2) Notwithstanding subparagraph (A), classified  
12 advertisements for autobrokering services that measure  
13 two column inches or less are exempt from the disclosure  
14 statement in subparagraph (A) pertaining to price and  
15 availability.

16 (3) Radio advertisements of a duration of less than 11  
17 seconds that do not reference specific line-makes or  
18 models of motor vehicles are exempt from the disclosure  
19 statement required in subparagraph (A).

20 (c) Fail, within 48 hours, in writing to withdraw any  
21 advertisement of a vehicle that has been sold or  
22 withdrawn from sale.

23 (d) Advertise or represent a vehicle as a new vehicle  
24 if the vehicle is a used vehicle.

25 (e) Engage in the business for which the licensee is  
26 licensed without having in force and effect a bond as  
27 required by this article.

28 (f) Engage in the business for which the dealer is  
29 licensed without at all times maintaining an established  
30 place of business as required by this code.

31 (g) Include, as an added cost to the selling price of a  
32 vehicle, an amount for licensing or transfer of title of the  
33 vehicle, which is not due to the state unless, prior to the  
34 sale, that amount has been paid by a dealer to the state in  
35 order to avoid penalties that would have accrued because  
36 of late payment of the fees. However, a dealer may collect  
37 from the second purchaser of a vehicle a prorated fee  
38 based upon the number of months remaining in the  
39 registration year for that vehicle, if the vehicle had been  
40 previously sold by the dealer and the sale was



1 subsequently rescinded and all the fees that were paid, as  
2 required by this code and Chapter 2 (commencing with  
3 Section 10751) of Division 2 of the Revenue and Taxation  
4 Code, were returned to the first purchaser of the vehicle.

5 (h) Employ any person as a salesperson who has not  
6 been licensed pursuant to Article 2 (commencing with  
7 Section 11800), and whose license is not displayed on the  
8 premises of the dealer as required by Section 11812, or  
9 willfully fail to notify the department by mail within 10  
10 days of the employment or termination of employment  
11 of a salesperson.

12 (i) Deliver, following the sale, a vehicle for operation  
13 on California highways, if the vehicle does not meet all of  
14 the equipment requirements of Division 12  
15 (commencing with Section 24000). *This subdivision does*  
16 *not apply to the sale of a leased vehicle to the lessee if the*  
17 *lessee is in possession of the vehicle immediately prior to*  
18 *the time of the sale.*

19 (j) Use, or permit the use of, the special plates assigned  
20 to him or her for any purpose other than as permitted by  
21 Section 11715.

22 (k) Advertise or otherwise represent, or knowingly  
23 allow to be advertised or represented on behalf of, or at  
24 the place of business of, the licenseholder that no  
25 downpayment is required in connection with the sale of  
26 a vehicle when a downpayment is in fact required and the  
27 buyer is advised or induced to finance the downpayment  
28 by a loan in addition to any other loan financing the  
29 remainder of the purchase price of the vehicle.

30 (l) Participate in the sale of a vehicle required to be  
31 reported to the Department of Motor Vehicles under  
32 Section 5900 or 5901 without making the return and  
33 payment of the full sales tax due and required by Section  
34 6451 of the Revenue and Taxation Code.

35 (m) Permit the use of the dealer's license, supplies, or  
36 books by any other person for the purpose of permitting  
37 that person to engage in the purchase or sale of vehicles  
38 required to be registered under this code, or permit the  
39 use of the dealer's license, supplies, or books to operate a  
40 branch location to be used by any other person, whether



1 or not the licensee has any financial or equitable interest  
2 or investment in the vehicles purchased or sold by, or the  
3 business of, or branch location used by, the other person.

4 (n) Violate any provision of Article 10 (commencing  
5 with Section 28050) of Chapter 5 of Division 12.

6 (o) Sell a previously unregistered vehicle without  
7 disclosing in writing to the purchaser the date on which  
8 any manufacturer's or distributor's warranty  
9 commenced.

10 (p) Accept a purchase deposit relative to the sale of a  
11 vehicle, unless the vehicle is present at the premises of  
12 the dealer or available to the dealer directly from the  
13 manufacturer or distributor of the vehicle at the time the  
14 dealer accepts the deposit. Purchase deposits accepted by  
15 an autobroker when brokering a retail sale shall be  
16 governed by Sections 11736 and 11737.

17 (q) Consign for sale to another dealer a new vehicle.

18 (r) Display a vehicle for sale at a location other than an  
19 established place of business authorized by the  
20 department for that dealer or display a new motor vehicle  
21 at the business premises of another dealer registered as an  
22 autobroker. This subdivision does not apply to the display  
23 of a vehicle pursuant to subdivision (b) of Section 11709  
24 or the demonstration of the qualities of a motor vehicle  
25 by way of a test drive.

26 *SEC. 2. Section 24007 of the Vehicle Code is amended*  
27 *to read:*

28 24007. (a) (1) No dealer or person holding a retail  
29 seller's permit shall sell a new or used vehicle which is not  
30 in compliance with this code and departmental  
31 regulations adopted pursuant to this code, unless the  
32 vehicle is sold to another dealer, *sold to a lessee who is in*  
33 *possession of the vehicle immediately prior to the time of*  
34 *the sale*, sold for the purpose of being legally wrecked or  
35 dismantled, or sold exclusively for off-highway use.

36 (2) Paragraph (1) does not apply to any vehicle sold by  
37 either (A) a dismantler after being reported for  
38 dismantling pursuant to Section 11520 or (B) a salvage  
39 pool after obtaining a salvage certificate pursuant to



1 Section 11515 or a nonrepairable vehicle certificate issued  
2 pursuant to Section 11515.2.

3 (b) (1) Except as provided in Section 24007.5, no  
4 person shall sell, or offer or deliver for sale, to the ultimate  
5 purchaser or to any subsequent purchaser a new or used  
6 motor vehicle, as those terms are defined in Chapter 2  
7 (commencing with Section 39010) of Part 1 of Division 26  
8 of the Health and Safety Code, subject to Part 5  
9 (commencing with Section 43000) of that Division 26  
10 which is not in compliance with that Part 5 and the rules  
11 and regulations of the State Air Resources Board, unless  
12 the vehicle is sold to a dealer or sold for the purpose of  
13 being legally wrecked or dismantled.

14 (2) Prior to or at the time of delivery for sale, the seller  
15 shall provide the purchaser a valid certificate of  
16 compliance or certificate of noncompliance, as  
17 appropriate, issued in accordance with Section 44015 of  
18 the Health and Safety Code.

19 (3) Paragraph (2) does not apply to any vehicle whose  
20 transfer of ownership and registration is described in  
21 subdivision (d) of Section 4000.1.

22 (4) Paragraphs (1) and (2) do not apply to any vehicle  
23 sold by either (A) a dismantler after being reported for  
24 dismantling pursuant to Section 11520 or (B) a salvage  
25 pool after obtaining a salvage certificate pursuant to  
26 Section 11515 ~~or~~ or a nonrepairable vehicle certificate  
27 issued pursuant to Section 11515.2.

28 (c) (1) With each application for initial registration of  
29 a new motor vehicle or transfer of registration of a motor  
30 vehicle subject to Part 5 (commencing with Section  
31 43000) of Division 26 of the Health and Safety Code, a  
32 dealer, the purchaser, or his or her authorized  
33 representative, shall transmit to the Department of  
34 Motor Vehicles a valid certificate of compliance or  
35 noncompliance, as appropriate, issued in accordance  
36 with Section 44015 of the Health and Safety Code.

37 (2) Notwithstanding paragraph (1) of this subdivision,  
38 with respect to new vehicles certified pursuant to  
39 Chapter 2 (commencing with Section 43100) of Part 5 of  
40 Division 26 of the Health and Safety Code, a dealer may



1 transmit, in lieu of a certificate of compliance, a  
2 statement, in a form and containing information deemed  
3 necessary and appropriate by the Director of Motor  
4 Vehicles and the Executive Officer of the State Air  
5 Resources Board, to attest to the vehicle's compliance  
6 with that Chapter 2. The statement shall be certified  
7 under penalty of perjury, and shall be signed by the  
8 dealer or the dealer's authorized representative.

9 Code, to read:

10 ~~11713.20. (a) The department may issue a temporary~~  
11 ~~branch license to a dealer to sell or lease new or used~~  
12 ~~motor vehicles under all of the following conditions:~~

13 ~~(1) A temporary branch license may not be issued to~~  
14 ~~the same dealer more than once in any six-month period.~~

15 ~~(2) The duration of a temporary branch license may~~  
16 ~~not exceed three days.~~

17 ~~(3) The location of the property for which the~~  
18 ~~temporary branch license is issued shall be located within~~  
19 ~~10 miles of, and in the same county as, a permanent~~  
20 ~~established place of business operated by the dealer.~~

21 ~~(4) The department may refuse to issue a temporary~~  
22 ~~branch license to a dealer under any of the grounds~~  
23 ~~specified in Sections 11702, 11703, 11703.1, and 11703.4.~~

24 ~~(5) Section 11709 shall apply to each temporary~~  
25 ~~branch operated by a dealer.~~

26 ~~(6) If new motor vehicles are to be sold or leased at the~~  
27 ~~temporary branch, Section 3062 applies.~~

28 ~~(b) Any advertisement or promotional materials~~  
29 ~~designed to attract the public to shop at a temporary~~  
30 ~~branch location operated by a dealer shall clearly and~~  
31 ~~conspicuously include the name, dealer number, and the~~  
32 ~~address of each permanent established place of business~~  
33 ~~operated by the dealer. For purposes of this subdivision,~~  
34 ~~any visual advertisement or promotional materials shall~~  
35 ~~contain the required disclosures in a type size that is~~  
36 ~~equivalent to the second largest type used in the~~  
37 ~~advertisement or promotional materials.~~

38 ~~(c) Any dealer selling or leasing a vehicle at a~~  
39 ~~temporary branch location shall provide each buyer or~~  
40 ~~lessee, prior to the sale or lease of any vehicle at that~~



1 temporary branch location, with a written statement  
2 disclosing the address of each permanent established  
3 place of business operated by the dealer and whether or  
4 not service work on the vehicle can be performed at any  
5 of the dealer's permanent established places of business.

6 (d) No dealer shall offer for sale at a temporary branch  
7 location any vehicle consigned to that dealer for sale by  
8 another dealer or person.

9 (e) This section does not apply to the issuance of a  
10 temporary branch license for the sale of recreational  
11 vehicles governed under Section 11713.15.

12 SEC. 2. No reimbursement is required by this act  
13 pursuant to Section 6 of Article XIII B of the California  
14 Constitution because the only costs that may be incurred  
15 by a local agency or school district will be incurred  
16 because this act creates a new crime or infraction,  
17 eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section  
19 17556 of the Government Code, or changes the definition  
20 of a crime within the meaning of Section 6 of Article  
21 XIII B of the California Constitution.

22 Notwithstanding Section 17580 of the Government  
23 Code, unless otherwise specified, the provisions of this act  
24 shall become operative on the same date that the act  
25 takes effect pursuant to the California Constitution.

